THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 24348 of 2005

Dated: 29.11.2005

Between:

K.Venkatarami Reddy

..... PETITIONER

AND

The A.P. State Civil supplies Corporation Ltd.,

Somajiguda, Hyderabad and others

.....RESPONDENTS

O R D E R:

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The petitioner is awarded the contract of transporting the essential commodities in the district of Kurnool. On 05.08.2005, one of his vehicles loaded with 255 Qtls of rice, belonging to the Corporation, was seized, on the allegation that the same was being diverted. Crime No.106 of 2005 was registered against the petitioner in Kurnool Taluk Police station. When the effort of the petitioner to get the stock release failed, he filed Criminal Petition No.4225 of 2005, before this court. Through order, dated 23.09.2005, this court directed release of the stock on condition that the petitioner furnishes a bank guarantee for a sum of Rs.2,29,500/-, representing the cost of the seized stock, and executes a personal bond for a sum of Rs.5,00,000/-. Petitioner states that he complied with the conditions and took release of the seized rice. It is also stated that the rice has since been made over to the respondents, and thereafter distributed at the relevant points. It is also alleged that the petitioner has since been discharged in Cr.No.106 of 2005.

Substantial amounts payable to the petitioner were withheld by the respondents. Therefore, he made a representation, dated 16.08.2005. On a consideration of the same, the 1st respondent passed an order, dated 10.11.2005, stating that a sum of Rs.4,57,935/-, representing the cost of the rice said to have been diverted, was already recovered and it is not possible to refund the same. Petitioner challenges the said order.

In the counter affidavit filed by the respondents, it is stated that the petitioner has violated conditions of contract and in that view of the matter, the said amount was deducted from the charges payable to the petitioner. It is also stated that irrespective of the outcome of the criminal case, the liability of the petitioner gets attracted, the moment it was found that there was diversion of the goods.

Heard Sri P.Raghavender Reddy, learned counsel for the petitioner and Sri D.Linga Rao, learned standing counsel for the respondents.

As part of his obligation under contract, the petitioner transported a quantity of 255 Qtls of rice from one point to another within the district. On the way, the truck was intercepted and the goods were seized, on the allegation that they were being diverted. Cr.No.106 of 2005 was registered and ultimately the petitioner is said to have been discharged therein.

It is not in dispute that the goods, referred to above, have been released, in pursuance of an order passed by this court and were made over to the respondents. The liability of the petitioner would certainly arise, if only the respondents suffered any loss in terms of quantity. It is impermissible for them to have the possession of the essential commodities as well as to recover the cost thereof. Such a course cannot be sustained under any legal system or in logic.

In addition to ensuring restoration of possession of the goods to the respondents, the

petitioner had already incurred the liability of furnishing bank guarantee for the cost of the goods as well as executing personal bonds. If, for any reason, the respondents have suffered any detriment or loss, the amount deposited by the petitioner in the Criminal court, in the form of bank guarantee, was sufficient to take care of it. Even now, it is not the case of the respondents that they have sustained any loss of one form or the other, on account of initiation of criminal proceedings against the petitioner. At any rate, the criminal proceedings ended in discharge of the petitioner. Therefore, there does not exist any basis for the respondents either in deducting or refusing to release the amount of Rs.4,57,935/- .

Hence, the writ petition is allowed and the impugned order is set aside. There shall be consequential direction to the respondents to release the amount covered by the impugned order, within a period of three weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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ts 29th November 2005